

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 07-13785

v.

Honorable John Corbett O'Meara

MARKITA D. DARDEN, individually, d/b/a  
M & M EXPRESS TAX SERVICE,

Defendant.

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**ORDER DENYING DEFENDANT'S MAY 8, 2008 MOTION FOR INJUNCTION AND  
GRANTING PLAINTIFF'S JULY 9, 2008 MOTION FOR ORDER TO SHOW CAUSE**

This matter came before the court on defendant Markita D. Darden's May 8, 2008 motion for injunction. The government filed a response to the motion May 14, 2008, and a motion for order to show cause July 9, 2008. Darden has failed to respond to the government's motion.

**BACKGROUND FACTS**

On May 8, 2008, the court heard oral argument on the government's December 18, 2007 motion for default judgment. Defendant Darden had failed to respond to the motion for summary judgment and failed to appear at the hearing. The court granted the motion for default judgment and issued a permanent injunction against Darden.

Defendant Darden filed a motion for injunction May 8, 2008, in which she sought no injunctive relief but merely attempted to explain why she was unable to comply with the court's order of permanent injunction which had been issued earlier that day. Darden explained that because the government had seized her business records, she was unable to provide the government

with the names and addresses of clients for whom she had prepared tax returns. Darden's motion seeks nothing of the court; therefore, the court cannot grant the motion.

In its July 9, 2008 motion, the government seeks an order requiring Darden to show cause why she should not be held in contempt for failure to comply with portions of the court's May 8, 2008 order requiring her to: 1) mail a copy of the injunction and a copy of the complaint to all persons or entities for whom she has prepared federal tax returns, amended returns or other federal tax documents since January 1, 2003; and 2) provide the government with a list of everyone for whom she has prepared a federal tax return since January 1, 2003.

The government does not dispute Defendant's contention that it has in its possession the business records that were seized in connection with Darden's criminal case. However, pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure, which provides for the return of seized property, a person aggrieved by the deprivation of property may move for the property's return. The motion must be filed in the district in which the property was seized. The government contends that defendant Darden has failed to contact Lisa L. Bellamy, Assistant United States Attorney, to discuss a means to accomplish the court's May 8, 2008 order. Defendant Darden has also failed to bring a motion in her criminal case for the return of the business records she needs to comply with the court's order.

Therefore, the court will set a hearing for Thursday, October 30, 2008, at 2:15 p.m., at which time defendant Darden will appear and show cause why she has not complied with the court's order. If, however, the parties accomplish the task of exchanging information in such a way to satisfy the court's May 8, 2008 order before the October 30, 2008 hearing, they are to inform the court in order that the hearing may be canceled.

**ORDER**

It is hereby **ORDERED** that defendant Darden's May 8, 2008 motion for injunction is **DENIED**.

It is further **ORDERED** that the government's July 9, 2008 motion for order to show cause is **GRANTED**.

It is further **ORDERED** that if the parties have failed to resolve their issues in order to comply with the court's May 8, 2008 order before October 30, 2008, defendant Darden is to appear at the court at 2:15 p.m. on that day in order to show cause why she should not be held in contempt.

s/John Corbett O'Meara  
United States District Judge

Date: September 19, 2008

I hereby certify that a copy of the foregoing document was served upon Lisa Bellamy by electronic mail and Markita D. Darden at 13803 Bringard Detroit, Michigan 48205 by U.S. Mail on this date, September 19, 2008.

s/William Barkholz  
Case Manager